

SONYA D. WINNER (SBN 200348)
Email: swinner@cov.com
CORTLIN H. LANNIN (SBN 266488)
Email: clannin@cov.com
ISAAC D. CHAPUT (SBN 326923)
Email: ichaput@cov.com
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, California 94105-2533
Telephone: (415) 591-6000
Facsimile: (415) 591-6091

*Attorneys for Defendant/Counterclaimant
Intuitive Surgical, Inc.*

[Additional counsel listed on signature page]

ALLEN RUBY (SBN 47109)
allen@allenruby.com
ALLEN RUBY, ATTORNEY AT LAW
15559 Union Ave. #138
Los Gatos, California 95032
Telephone: (408) 477-9690

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE
COMPANY, INC.,

Plaintiff/
Counterclaim-Defendant

vs.

INTUITIVE SURGICAL, INC.,

Defendant/
Counterclaimant.

Case No.: 3:21-cv-03496-AMO-LB

**ADMINISTRATIVE MOTION OF
DEFENDANT INTUITIVE SURGICAL,
INC. TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED PURSUANT TO
CIVIL LOCAL RULE 79-5(f) REGARDING
INTUITIVE'S DAUBERT REPLIES**

Judge: The Honorable Araceli Martínez-Olguín

Pursuant to Civil Local Rules 7-11 and 79-5(f), Intuitive Surgical, Inc. (“Intuitive”) hereby submits this Administrative Motion to Consider Whether Another Party’s Materials Should be Sealed (“Motion to Consider”), with respect to Intuitive’s concurrently filed *Daubert* Replies, and the exhibits filed with these Replies.

Intuitive is filing this Motion to Consider because portions of these documents quote or discuss materials that Surgical Instrument Service Company, Inc. (“SIS”) or third parties have designated confidential or highly confidential under the protective order in this case or the protective order in previous cases against Intuitive. *See Restore Robotics, LLC, et al. v. Intuitive Surgical, Inc.* (N.D. Fla. 19-cv-55); *Rebotix Repair, LLC v. Intuitive Surgical, Inc.* (M.D. Fla. 20-cv-2274). Intuitive reserves the right, under Local Rule 79-5(f)(4), to oppose any motions filed by SIS or third parties to permanently seal these documents.

The documents filed provisionally under seal in connection with this motion are listed in the Proposed Order filed in conjunction with this motion and attached to this motion. For those documents not designated in their entirety, highlighting has been added to indicate material that SIS or third parties have designated confidential or highly confidential.

Under Local Rule 79-5(f)(2), this motion serves as notice to SIS, and Intuitive will serve on counsel for all third parties listed in the Proposed Order copies of this motion and letters identifying the materials filed under temporary seal that they have designated.

DATED: May 11, 2023

By: /s/ Kathryn E. Cahoy
KATHRYN E. CAHOY

Attorney for Intuitive Surgical, Inc.

Additional Counsel for Intuitive Surgical, Inc.

ALLEN RUBY (SBN 47109)
allen@allenruby.com
ALLEN RUBY, ATTORNEY AT LAW
15559 Union Ave. #138
Los Gatos, California 95032
Telephone: (408) 477-9690

KATHRYN E. CAHOY (SBN 298777)
Email: kcahoy@cov.com
COVINGTON & BURLING LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, California 94306-2112
Telephone: (650) 632-4700
Facsimile: (650) 632-4800

1 KAREN HOFFMAN LENT (*Pro Hac Vice*)
Email: karen.lent@skadden.com
2 MICHAEL H. MENITOVE (*Pro Hac Vice*)
Email: michael.menitove@skadden.com
3 SKADDEN, ARPS, SLATE,
4 MEAGHER & FLOM LLP
One Manhattan West
5 New York, NY 10001
Telephone: (212) 735-3000
6 Facsimile: (212) 735-2040
7
8

SONYA WINNER (SBN 200348)
Email: swinner@cov.com
CORTLIN H. LANNIN (SBN 266488)
Email: clannin@cov.com
ISAAC D. CHAPUT (SBN 326923)
Email: ichaput@cov.com
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, California 94105-2533
Telephone: (415) 591-6000
Facsimile: (415) 591-6091

9 ANDREW LAZEROW (*Pro Hac Vice*)
Email: alazerow@cov.com
10 ASHLEY E. BASS (*Pro Hac Vice*)
Email: abass@cov.com
11 JOHN KENDRICK (*Pro Hac Vice*)
Email: jkendrick@cov.com
12 COVINGTON & BURLING LLP
One City Center 850 Tenth Street NW
13 Washington DC 20001-4956
Telephone: (202) 662-6000
14 Facsimile: (202) 662-6291
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Kathryn E. Cahoy, hereby certify that on May 11, 2023, I caused a true and correct copy of the foregoing Administrative Motion of Defendant Intuitive Surgical, Inc. To Consider Whether Another Party's Material Should Be Sealed Pursuant to Civil Local Rule 79-5(f) Regarding Intuitive's *Daubert* Replies dated May 11, 2023, and information identifying for each party the specific material that they previously designated as confidential and was this day filed under provisional seal, to be served on the following entities via certified or electronic mail to the counsel listed below:

Party	Counsel
Alliance Healthcare Partners	Jeffrey L. Berhold
Rebotix Repairs	Alexander Erwig
Restore Robotics LLC	Jeffrey L. Berhold
Stryker Sustainability Solutions	Andrea Bernard

DATED: May 11, 2023

By: /s/ Kathryn E. Cahoy
KATHRYN E. CAHOY

Attorney for Intuitive Surgical, Inc.